

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34442 of 2023

Arising Out of PS. Case No.-114 Year-2021 Thana- NADI P.S. District- Patna

BAIJU RAI @ BAIJU KUMAR S/O SHANKAR RAI R/O Village-
Maujipur, Gadhochak, Kripal Tola, P.S- Nadi, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sudish Kumar, Advocate

For the Opposite Party/s : Mr. Harendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 24-06-2023 Heard learned counsel for the petitioner and the
learned APP for the State.

The petitioner is in judicial custody in connection with Nadi P.S. Case No.114 of 2021 instituted under Sections 08,20,22,29 of NDPS Act lodged on 13.05.2021 by the informant Dharmendra Prasad.

As per the FIR, on 13.05.2021 at about 09:00 hrs, the informant got secret information that illegal 'ganja' was coming at Mauniya Ghat from Vaishali District. The informant along with police personnel departed for the spot. They reached near Kripal Tola at about 10:30 hrs. and saw 4-5 persons standing on east side of NH-30. All of them were trying to board an Auto. As the informant intercepted the Auto four persons fled away while one person was apprehended and he disclosed his name as Sonu Kumar. On searched, 05 packets of 'ganja' of 11.048 kg in



one bag and 09 packet ganja of 9.500 kg in second bag, and 06 packet ganja of 8.250 kg in third bag total 28.798 kg were recovered/seized. Further, on search of pocket of Sonu Kumar, one mobile and Rs. 700/- were recovered. After that seizure list was prepared and accordingly, the FIR.

It has been submitted by learned counsel for the petitioner that recovery is from three bags and on weighing 9.500 Kg. , 8.250 Kg. as also 11.048 Kg. were recovered/seized from the said bags, totalling 28.79 Kg. His submission is that four people were sitting in the auto according to the FIR and on police interception, three accused escaped while one Sonu Kumar was apprehended. Further the police alleged that the petitioner was one of the person who escaped. He submit that in that backdrop the recovery/seizure of the 'Ganja' from each bag is lower than the quantity that has been envisaged as commercial quantity in NDPS Act. One of the co-accused Sonu Kumar who was apprehended from the spot has since been released on bail in Cr. Misc. No.40610 of 2022 by a coordinate bench of this Court.

Let the same be kept on record.

Learned APP submits that although separates bags have been recovered the same totals 28.79 which is above



commercial quantity.

This Court find force in the submission put forward by the learned counsel for the petitioner. Separates bags were recovered/seized which though totals 28.79 (which is above commercial quantity), allegation is that four persons were sitting in the auto and while three escaped, while Sonu Kumar apprehended who has since been released on bail and in that backdrop as also the fact the petitioner do not have criminal antecedent and is in custody since 23.10.2022 (as reflects from para-6 of the petition), this Court is inclined to grant him privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs.20,000/-(Rupees Twenty Thousand) with two sureties of the like amount each in connection with Nadi P.S. Case No.114 of 2021 to the satisfaction of learned Additional Sessions Judge, XVII, Patna, subject to following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his bona fide;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail



bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station month for next one year to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

Prakash Narayan /-

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